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BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

----- In the Matter of -----)
)
 PUBLIC UTILITIES COMMISSION)
)
 Instituting a Proceeding to Investigate the)
 Issues and Requirements Raised by, and)
 Contained in, Hawaii Revised Statutes)
 Chapter 486H, as Amended)
 _____)

DOCKET NO. 05-0002

PUBLIC UTILITIES
COMMISSION

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FILED

MOTION TO INTERVENE

AFFIDAVIT OF ROBERT W. FUNG

and

CERTIFICATE OF SERVICE

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MOTION TO INTERVENE

Pursuant to the Hawaii Administrative Rules ("HAR") of the Public Utilities Commission ("Commission"), title 6, chapter 61, subchapter 4, and Commission Order No. 21525, filed January 4, 2005, the HAWAII PETROLEUM MARKETERS ASSOCIATION, a Hawaii non-profit corporation ("HPMA"), respectfully moves the Commission for an order allowing HPMA to intervene and become a party in the above-captioned matter.

HAR § 6-61-55(b) describes the facts to which a motion to intervene shall make reference. In addition, HAR § 6-61-55(d) provides that "[i]ntervention shall not be granted except on allegations which are reasonably pertinent to and do not unreasonably broaden the issues already presented." HPMA satisfies the foregoing standards based on the following grounds:

1. HPMA is a Hawaii non-profit corporation whose members include substantially all of the "jobbers" operating within the State of Hawaii. The members of HPMA

overwhelmingly approved a resolution that HPMA file this Motion to Intervene on behalf of the HPMA membership to ensure the interests of the jobber industry in the State of Hawaii are adequately represented in the above referenced docket.

2. The petroleum distribution industry in the State of Hawaii (and throughout the United States) is based on three levels of distribution: (i) refiners/manufacturers, (ii) jobbers, and (iii) retailers.

3. Hawaii jobbers are wholesale distributors of petroleum fuel products who purchase fuel from one of the two refineries operating in the State of Hawaii (i.e., Chevron and Tesoro), and resell and deliver these products to businesses for use in their operations and to retail locations throughout the state, including remote ones not served by the major oil companies.

4. Order No. 21525 describes the Commission's intended investigation into how it will implement the statutory requirements of Act 242, as such legislation amends Chapter 486H, Hawaii Revised Statutes ("HRS"). The order also names Chevron and Tesoro, the two oil company refineries operating within the State of Hawaii, as initial parties to this investigatory docket.

5. Upon taking effect on September 1, 2005, Chapter 486H, as amended by Act 242, establishes the procedure by which the Commission will set the maximum pre-tax wholesale prices at which a manufacture, wholesaler or jobber may sell regular unleaded, mid-grade, and premium gasoline products to any dealer retail station, independent retail station, or to another jobber or wholesaler. See HRS §486H-13.

6. HPMA has an interest in the above-captioned matter because the investigation will focus on all aspects of the wholesale petroleum fuel industry and the jobbers represent a key segment of this industry. Further, the impact of the Commission setting the maximum wholesale fuel prices will directly affect the prices that HPMA's members will be able to charge to their wholesale customers, including independent retail dealers that rely upon the jobber industry for their economic survival.

7. The law the Commission is investigating will set the maximum wholesale fuel rates chargeable by all non-retailers in the petroleum distribution chain and places the jobber segment within the same category as manufacturers/refiners. Conceivably, the manufacturer/refinery segment could set their prices at the statutory maximum. The jobbers, who are in the same group and subject to the same price restrictions as the manufacturers, would be prevented from increasing their prices for fuel delivered to retailers, and would no longer be able to deliver fuel to large commercial, agricultural, industrial and governmental customers using bulk pricing discounts. Therefore, the jobbers, who provide a necessary transportation and resale service within the State of Hawaii, may have no ability to cover their costs of goods transported and sold, let alone make any reasonable profit for providing such services. In short, this law threatens the economic viability of the entire jobber industry in the State of Hawaii, and therefore HPMA desires to intervene to represent these interests on behalf of its members and protect them from suffering catastrophic economic hardships.

8. The Commission's investigation and any order stemming therefrom could have a major impact on the interests of HPMA's members. The jobber industry in the State of Hawaii is at risk of being wiped out entirely if the jobbers do not have the ability to obtain a cost

effective margin between the price at which jobbers are able to purchase fuel from the manufacturers/refineries and the price at which the jobbers can competitively resell such products to their retail and wholesale customers. The law that the Commission is charged with implementing may eliminate the entire jobber segment from the distribution chain because the manufacturers/refineries may be unable to provide jobbers with fuel at prices that would allow the jobbers to remain in business.

9. There appears to be no other means available whereby the interests of the members of HPMA may be protected, absent each jobber-member of HPMA filing a separate motion to intervene in this docket. This would only cause delay and repetition of the issues and unnecessarily broaden the scope of the Commission's investigation.

10. There are no existing parties representing the interests of the jobber industry. Chevron and Tesoro are not looking out for the interests of the jobber industry as they represent the refiner/manufacturer segment. Moreover, the Consumer Advocate is likely focused on the interests of the public end-consumer rather than the interests of the wholesale industry middle-men. Thus, there is no other party looking out for the interests of HPMA and its members. HPMA should participate in this docket to ensure that the Commission's investigatory record properly addresses the interests of the jobber industry in the State of Hawaii, and the interests of the jobber segment customers if necessary.

11. HPMA's participation in this investigatory docket will assist greatly in the development of a sound record through the introduction of pertinent evidence and close examination of the underpinnings of Act 242 and the challenges the Commission faces in attempting to implement the law in a fair and reasonable manner for all participants. Act 242

specifically references the jobber industry and there is no more apt party to explain the jobber industry and its concerns than the trade group representing substantially all of the jobber industry participants in the State of Hawaii.

12. No other party to this Docket represents the collective jobber segment as a whole. HPMA's membership is comprised of jobbers of various sizes and levels of operations. The aggregate consensus of the HPMA membership will best reflect the interests of the jobber industry as a whole.

13. HPMA's participation in this docket should not broaden the issues or unduly delay the proceeding. To the contrary, not permitting HPMA to participate in this docket and requiring each of its members to individually intervene will broaden the issues before the Commission as the jobber industry has participants of varying sizes, markets, and operational needs and this would only result in expanding the scope of the investigation. Rather, it would be more efficient for the Commission to allow the intervention of HPMA as the organization representing the jobber industry as a whole.

14. HPMA's interest in this proceeding differs from that of the general public because the wholesale middle man's interests are not the same as those of the general public. The jobber segment of the petroleum industry, by definition, does not deal directly with the general public, but rather caters to the interests of commercial, agricultural, industrial and governmental consumers of fuel products. The Consumer Advocate, who is charged with representing the interests of the general public, is likely not focused on the fairness of Act 242 as it applies to the jobber segment but rather on the end-customer of the retailers. Only the jobber

segment can best represent its interests and the technical and complex inter-relationships and practices within the wholesale petroleum industry.

15. HPMA's motion for intervention, at the time of its submission, is neither in opposition to nor support of the investigation by the Commission because Order No. 21525 does not set forth a specific relief being sought. However, HPMA is in support of the Commission developing an investigatory record that adequately represents each segment of the wholesale fuel industry and the impact that Act 242 may have on each such segment, and specifically the jobber segment.

16. Pursuant to HAR § 6-61-41(b), a hearing is requested on this motion only if an objection is made.

17. Correspondence and communications with respect to this motion should be sent to:

Kelly G. LaPorte, Esq.
Marc E. Rousseau, Esq.
Cades Schutte LLP
1000 Bishop St., Ste. 1200
Honolulu, HI 96813

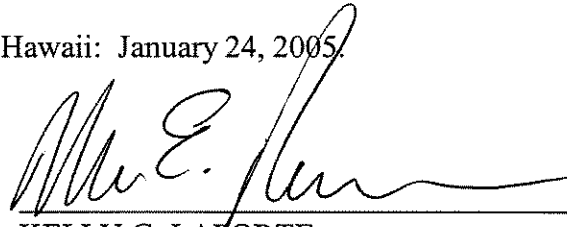
Attorneys for Intervenor Movant
Hawaii Petroleum Marketers Association

A copy of all correspondence and communications should be sent to HPMA at the following address:

Hawaii Petroleum Marketers Association
c/o Robert W. Fung, President
P.O. Box 500
Honolulu, HI 96809

18. In the unlikely event the Commission enters an order denying this motion of HPMA, then HPMA, on behalf of its members, requests the Commission to grant a sufficient reasonable extension period within which the individual jobber members of HPMA may file separate motions to intervene in this docket.

DATED: Honolulu, Hawaii: January 24, 2005.

A handwritten signature in black ink, appearing to read 'Kelly G. LaPorte', written over a horizontal line.

KELLY G. LAPORTE

MARC E. ROUSSEAU


NEILL T. TSENG

Attorneys for Intervenor Movant

HAWAII PETROLEUM MARKETERS ASSOCIATION

STATE OF HAWAII)
)
CITY AND COUNTY OF HONOLULU)

DATED: Honolulu, Hawaii: January 24, 2005.


ROBERT W. FUNG

Pamela Simon

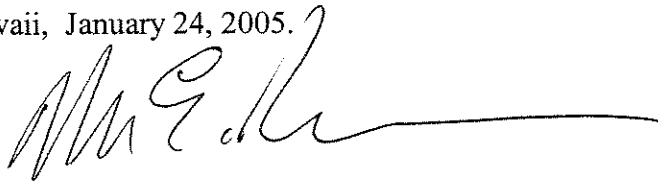
Notary Public, State of Hawaii

CERTIFICATE OF SERVICE

I hereby certify that on January 24, 2005, I served copies of the foregoing, together with this Certificate of Service, either by United States mail, postage prepaid, or by hand-delivery to the following:

<u>Party Served</u>	<u>No. of Copies</u>	<u>Method of Service</u>
DIVISION OF CONSUMER ADVOCACY DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS P.O. Box 541 Honolulu, HI 96808	2	Mail
TESORO HAWAII CORPORATION c/o THE CORPORATION COMPANY, INC. 1000 Bishop St. Honolulu, Hawaii 96813	1	Mail
CHEVRON U.S.A. INC. c/o PHCS HAWAII, INC. 1001 Bishop St. Honolulu, Hawaii 96813	1	Mail

DATED: Honolulu, Hawaii, January 24, 2005.



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